

United States
Circuit Court of Appeals
For the Ninth Circuit.

PACIFIC COAST CASUALTY COMPANY, a
Corporation,
Appellant and Plaintiff in Error,
vs.
S. G. HARVEY,
Appellee and Defendant in Error.

Transcript of Record.

Upon Appeal from and Writ of Error to the Southern
Division of the District Court of the United
States for the Northern District of
California, Second Division.

FILED
NOV 13 1917
F. D. MUNKITTING,
CLERK.



United States
Circuit Court of Appeals
For the Ninth Circuit.

PACIFIC COAST CASUALTY COMPANY, a
Corporation,
Appellant and Plaintiff in Error,
vs.
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Appellee and Defendant in Error.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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*In the District Court of the United States, in and
for the Ninth Judicial Circuit, Northern Dis-
trict of California, Second Division.*

No. 320—IN EQUITY.

DANIEL COMBS,

Plaintiff,

vs.

PACIFIC COAST CASUALTY COMPANY, a
Corporation,

Defendant.

Order Appointing Receiver.

The application for the appointment of a Receiver of the property of the defendant herein coming on to be heard and all parties to the controversy uniting in the request therefor;

IT IS HEREBY ORDERED that John C. Lynch of the city of Berkeley, in the State of California, be, and he is, hereby appointed receiver of this Court of all and singular the lands, tenements, and hereditaments of the said Pacific Coast Casualty Company, and of all the personal assets thereof, of every kind, including all sum, or sums, of money due and payable or to become due and payable to it, and all of its office furniture, books of account, and other personal property of every name, nature and description and all of the stocks, bonds and obligations, choses in action, accounts and rights under contracts now owned or possessed, by said corporation, together with all its corporate rights, franchises, incomes and profits of every description in this district, to have and to hold the same as an

officer of and under the orders and directions of this Court.

That said Receiver is hereby authorized and directed to take immediate possession of all and singular the property above described, and to continue the business of said corporation and every part and portion thereof, and to conserve the property of said corporation so that it may be safely and advantageously employed.

Each and every of the officers, directors, agents and [1*] employees of the said Pacific Coast Casualty Company within this district, and all other persons or corporations therein, are hereby required and commanded forthwith upon demand of the said Receiver to turn over and deliver to such Receiver, or his duly constituted representative, any and all property, books of account, vouchers, deeds, leases, contracts, bills, notes, accounts, moneys, stocks, bonds or other obligations, or other property, in his or their hands, or in his or their control belonging to said defendant corporation.

The said Receiver is hereby fully authorized to institute and prosecute such suits as may in his judgment be necessary for the protection of the property and the trusts that are vested in him, and to defend any and all actions instituted against him as such Receiver, and also to appear in and conduct the prosecution or defense of any and all actions now pending or hereafter commenced in Court within this district by or against the said Pacific Coast Casualty Company.

*Page-number appearing at foot of page of original certified Transcript of Record.

The said Receiver is hereby authorized and directed, out of the moneys coming into his hands, to pay and discharge all amounts due to employees of said corporation in said district accrued or to accrue upon the current pay-roll, and pay all usual and ordinary expenses necessary to carry on the usual business and operations of said corporation without the special order of the Court.

The said Receiver is hereby directed to file with the clerk of the Court, within five (5) days from date, a proper bond, the sureties to be approved by the clerk of this Court, in the penal sum of FIFTY THOUSAND (\$50,000) DOLLARS.

All creditors of said Pacific Coast Casualty Company within this district are hereby enjoined from in any way interfering with, transferring, selling, or disposing of any of the property of said corporation, or from taking possession of, or in any way interfering with, the same, or any part thereof, or from interfering [2] in any manner whatever with the possession or management of any part of the said property, or interfering in any manner to prevent the discharge of the duties of said Receiver, or to control in any way, except to transfer, convey and turn over the same to said Receiver.

Said Receiver may from time to time apply to this Court for further orders authorizing him to perform such other acts and duties not covered hereby as may be necessary for the proper discharge of his trust.

Dated December 6th, 1916.

WILLIAM C. VAN FLEET,
Judge.

[Endorsed]: Filed Dec. 6, 1916. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk. [3]

[Title of Court and Cause.]

Petition for Order to Show Cause.

Now comes S. G. Harvey, a citizen and resident of the Northern District of the State of California, by the undersigned, her solicitors, and respectfully shows to the Court:

That petitioner is a creditor of Pacific Coast Casualty Company, a corporation, the defendant above named; that the particulars of her claim against the said insolvent corporation and the Receiver thereof are set forth in the claim hereto annexed and in the exhibits attached to and referred to in said claim, and petitioner hereby refers to the said claim and to the said exhibits thereto attached and incorporates the same herein by reference.

That on the 15th day of January, 1917, petitioner caused her said claim to be presented to John C. Lynch, the Receiver of the above-named corporation defendant; that the said receiver thereafter rejected and refused to allow and even since has rejected and refused to allow the said claim.

WHEREFORE, petitioner prays for leave of the Court to file this petition in the above-entitled proceeding and for an order of the Court herein directing that an order to show cause be made, the same to be returnable at the time and place to be fixed by the Court ordering and directing John C. Lynch, as Receiver of Pacific Coast Casualty Company, to show cause why he should not allow the said claim of

petitioner to be paid in due course of the administration of the affairs of the said corporation, and for such other, further or additional relief as shall be meet and proper in equity.

And petitioner will ever pray.

S. C. HARVEY,

Petitioner.

CHARLES S. WHEELER and

JOHN F. BOWIE,

Solicitors for Petitioner.

NATHAN MORAN,

Of Counsel. [4]

In the Southern Division of the United States District Court for the Northern District of California.

No. 320—IN EQUITY.

COMBS,

Plaintiff,

vs.

PACIFIC COAST CASUALTY COMPANY (a Corporation),

Defendant.

Creditor's Claim.

To the Honorable District Court Above Named, and to John C. Lynch, Esq., as Receiver of Pacific Coast Casualty Company (a Corporation):

Now comes S. G. Harvey, a creditor of Pacific Coast Casualty Company, defendant above named, and presents to the above-entitled court and to the above-named receiver, her claim against Pacific

Coast Casualty Company, a corporation, as follows:
Pacific Coast Casualty Company,

To S. G. Harvey, Dr.

To costs and disbursements in the case of B. S. Stowe, Trustee, etc., Plaintiff, vs. S. G. Harvey et al., Defendants.....\$773.20
To interest accruing on the above amount at 7% per annum from the 18th day of November, 1914, until payment.....
Total.....\$

The particulars of the foregoing claim are as follows:

On or about the 11th day of January, 1912, there was commenced in the District Court of the United States for the Northern District of California, First Division, a suit entitled "B. S. Stowe, Trustee in Bankruptcy of the Estate of J. Downey Harvey, a Bankrupt, Plaintiff, vs. J. Downey Harvey, S. G. Harvey, et al., Defendants." On the 19th day of September, 1913, in said suit, Judgment was entered in favor of the plaintiff therein and against the [5] defendant S. G. Harvey; that thereafter the said S. G. Harvey took an appeal in said action to the United States Circuit Court of Appeals for the Ninth Circuit, which said appeal was numbered 2401 and entitled "S. G. Harvey, Appellant and Plaintiff in Error, vs. B. S. Stowe, as Trustee in Bankruptcy of the Estate of J. Downey Harvey, a Bankrupt, Appellee and Defendant in Error."

The United States Circuit Court of Appeals, on the 18th day of November, 1914, duly gave and made, and caused to be filed and entered, its Decree revers-

ing the Judgment and Decree of the said District Court and with directions to the said District Court to dismiss the said cause, and further ordering, adjudging and decreeing that the appellant and plaintiff in error recover against the appellee and defendant in error for her costs therein expended and for execution therefor. A copy of said Decree is hereunto annexed, marked Exhibit "A," and is hereby referred to and made a part hereof.

Thereafter the said B. S. Stowe, as Trustee, as aforesaid, took an appeal from the said Decree of the United States Circuit Court of Appeals to the Supreme Court of the United States, and upon said appeal procured to be executed, approved and filed in his behalf by Pacific Coast Casualty Company a bond in the sum of \$5,000.00, conditioned to answer all damages and costs if he failed to make said appeal good. A copy of said bond is hereunto annexed, marked Exhibit "B," and is hereby referred to and made a part hereof.

Upon hearing and submission of the said cause the United States Supreme Court affirmed the Decree of the United States Circuit Court of Appeals for the Ninth Circuit hereinabove mentioned and referred to, and on the 11th day of July, 1916, the District Court of the United States for the Northern District of California made its Order dismissing the said action of Stowe vs. Harvey. A copy of said Order is hereunto annexed, marked Exhibit "C," and is hereby referred to and made a part hereof. [6]

Thereafter the said S. G. Harvey filed in the said District Court her Memorandum of Costs and Disbursements and the same were by the clerk of the said

Court taxed at \$773.20; that the plaintiff in said action thereafter gave notice of a motion to retax said costs, and upon a hearing by the Court the said motion to retax was denied and the Order of the clerk taxing said costs at \$773.20 was affirmed.

That said S. G. Harvey has frequently demanded of the said B. S. Stowe, as Receiver, as aforesaid, payment of the said costs, but the same has not nor has any part thereof been paid, nor has any interest thereon been paid.

WHEREFORE, said claimant prays that her claim as aforesaid be allowed by the Receiver herein and be allowed and filed in the above-entitled court and proceeding to be paid in due course of administration.

S. G. HARVEY,
Claimant.

CHARLES S. WHEELER, and
JOHN F. BOWIE.

Attorneys for Claimant. [7]

Exhibit "A"—Decree C. C. A., Harvey v. Stowe, etc.

EXHIBIT "A."

United States Circuit Court of Appeals, Ninth Circuit.

No. 2401.

S. G. HARVEY,
Appellant and Plaintiff in Error.
vs.

B. S. STOWE, as Trustee in Bankruptcy of the
Estate of J. DOWNEY HARVEY, a Bank-
rupt,

Appellee and Defendant in Error.

DECREE.

Appeal from and writ of error to, the District Court of the United States for the Northern District of California, First Division.

This cause came on to be heard on the Transcript of the Record from the District Court of the United States, for the Northern District of California, First Division, and was duly submitted.

On consideration whereof, it is now here ORDERED, ADJUDGED, AND DECREED by this Court that the Decree of the said District Court in this cause be and hereby is reversed, with costs in court below in favor of the appellant and plaintiff in error and against the appellee and defendant in error, and with directions to the said District Court to dismiss the cause.

It is further ORDERED, ADJUDGED AND DECREED by this Court that the appellant and plaintiff in error recover against the appellee and defendant in error for her costs herein expended, and have execution therefor.

[Endorsed]: "Approved by Wolverton, D. J. Filed and entered November 18, 1914. F. D. Monckton, Clerk." [8]

**Exhibit "B"—Bond on Appeal from Decree C. C. A.
to Supreme Court U. S. in Stowe v. Harvey.**

EXHIBIT "B."

*In the Circuit Court of Appeals for the United
States, in and for the Ninth Circuit.*

No. 2401.

B. S. STOWE, Trustee in Bankruptcy of the Estate
of J. DOWNEY HARVEY, a Bankrupt,
Appellant,

vs.

S. G. HARVEY,

Appellee.

**BOND ON APPEAL FROM DECREE OF CIR-
CUIT COURT OF APPEALS TO THE
SUPREME COURT OF THE UNITED
STATES.**

Know All Men by These Presents: That the Pacific Coast Casualty Company, a corporation duly organized under the laws of the State of California, is held and firmly bound unto S. G. Harvey, in the full and just sum of Five Thousand Dollars (\$5,000.00), gold coin of the United States of America, to be paid to said S. G. Harvey, her attorneys, executors, administrators or assigns, to which payment well and truly to be made said corporation does hereby bind itself, its successors and assigns, jointly and severally by these presents.

Sealed with our seal and dated this 15th day of December, in the year of our Lord one thousand nine hundred and fourteen.

WHEREAS, the appellant in the above-entitled suit has prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered and entered in said cause in the United States Circuit Court of Appeals for the Ninth Circuit, on the eighteenth day of November, 1914, in the action wherein B. S. Stowe, Trustee in Bankruptcy of the Estate of J. Downey Harvey, a Bankrupt, was complainant, and S. G. Harvey was defendant; and

WHEREAS, said appellant has obtained from the said Court an Order allowing an appeal to the Supreme Court of the [9] United States to reverse said decree of the United States Circuit Court of Appeals in the aforesaid suit, and a citation directed to S. G. Harvey, citing and admonishing her to be and appear at the United States Supreme Court, to be holden at Washington, District of Columbia;

NOW, THEREFORE, the condition of this obligation is such that if the said appellant shall prosecute said appeal to effect and answer all damages and costs, if he fail to make said appeal good, then the above obligation shall be void; otherwise, to remain in full force and effect.

PACIFIC COAST CASUALTY COMPANY.

[Official Seal]

By R. W. STEWART,
Attorney in Fact.

The foregoing bond is approved in form, and the sufficiency of the surety therein named is hereby approved, this 15th day of December, A. D. 1914.

(Signed) WM. C. VAN FLEET,
Judge. [10]

**Exhibit "C"—Order Dismissing Action in District
Court in *Stowe v. Harvey*.**

EXHIBIT "C."

*In the District Court of the United States for the
Northern District of California, First Division.*

No. 15,222.

B. S. STOWE, Trustee in Bankruptcy of the Estate
of J. DOWNEY HARVEY, Bankrupt,
Plaintiff,

vs.

J. DOWNEY HARVEY, JOHN DOE, RICHARD
ROE, and JAMES BLACK, and S. G.
HARVEY,

Defendants.

ORDER DISMISSING ACTION.

On reading and filing the Mandate of the Supreme Court of the United States, and in compliance therewith, on motion of attorneys for the defendant, S. G. Harvey,

IT IS HEREBY ORDERED that the above-entitled action be, and the same hereby is, dismissed, and that the defendant S. G. Harvey have and recover judgment against the said defendant for her costs herein and for her costs and disbursements expended in the United States Circuit Court of Appeal.

And WHEREAS, on November 21st, 1913, in compliance with the order of this Court allowing an appeal, said defendant S. G. Harvey deposited with the clerk of this court Certificate No. 83, for 546 shares

of the capital stock of Shore Line Investment Company, a corporation, the same to be held in part lieu of a supersedeas bond on appeal,—

NOW, THEREFORE, the clerk of this Court is hereby directed to deliver to J. F. Bowie, one of the attorneys for S. G. Harvey, the said certificate of stock upon said J. F. Bowie giving proper receipt therefor.

Dated July 11th, 1916.

(Signed) M. T. DOOLING,
Judge.

Due service and receipt of a copy of the within — this 15th day of Jan., 1917, is hereby admitted.

JNO. C. LYNCH,
Receiver. [11]

[Endorsed]: In the United States District Court for the Northern District of California, Second Division. Filed Apr. 26, 1917. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy. [12]

[Title of Court and Cause.]

Order Granting Leave to File Petition and to Show Cause.

On reading the petition of S. G. Harvey presented herein, IT IS ORDERED that the same be filed and on motion of Charles S. Wheeler and John F. Bowie, solicitors for petitioner, it is HEREBY ORDERED that a copy of the same, together with a copy of this order, be served upon the said John C. Lynch, as Receiver, or upon his solicitor of record herein in the above-entitled suit, on or before the 26th day of

April, 1917, and that the said John C. Lynch, as receiver of Pacific Coast Casualty Company, a corporation, be and appear before our District Court of the United States within and for the Southern Division of the Northern District of the State of California, Second Division, on Monday, the 30th day of April, 1917, to show cause, if any he have, why he should not allow the claim of S. G. Harvey as a creditor of said Pacific Coast Casualty Company, as heretofore presented to him and as attached to the said petition filed herein.

IT IS FURTHER ORDERED that service hereof be made by a competent person on or before the day first above named and due return hereon on or before the appearance day above noted.

WITNESS MY HAND this 26th day of April, A. D. 1917.

WM. C. VAN FLEET,
District Judge.

[Endorsed]: Filed Apr. 26, 1917. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk. [13]

At a stated term, to wit, the March term, A. D. 1917, of the Southern Division of the United States District Court for the Northern District of California, Second Division, held at the courtroom in the city and county of San Francisco, on Monday, the 30th day of April, in the year of our Lord, one thousand nine hundred and seventeen. Present: The Honorable WILLIAM C. VAN FLEET, District Judge.

No. 320—EQUITY.

DANIEL COMBS

vs.

PACIFIC COAST CASUALTY CO.

(Order Submitting Petition, etc.)

Ordered that the Receiver's petition for order to withdraw bond coupons be continued to May 14, 1917. After arguments, it was ordered that the petition for order allowing claim of S. G. Harvey be submitted on points to be filed in 2 days *and 2 days*. [14]

At a stated term, to wit, the July term, A. D. 1917, of the Southern Division of the United States District Court for the Northern District of California, Second Division, held at the courtroom in the city and county of San Francisco, on Monday, the 15th day of August, in the year of our Lord, one thousand nine hundred and seventeen. Present: The Honorable WILLIAM C. VAN FLEET, District Judge.

No. 320—EQUITY.

DANIEL COMBS

vs.

PACIFIC COAST CASUALTY CO.

(Order Allowing Claim of S. G. Harvey, etc.)

The petition of S. G. Harvey, for order directing the Receiver to allow her claim, heretofore heard and submitted, being now fully considered and the Court having rendered its oral opinion, it is ordered that

said claim be allowed with interest from the date on which the cost bill was taxed by the Court. [15]

*In the Southern Division of the District Court of the
United States, in and for the Northern District
of California, Second Division.*

No. 320—IN EQUITY.

DANIEL COMBS,

Plaintiff,

vs.

PACIFIC COAST CASUALTY COMPANY, a
Corporation,

Defendant.

**Engrossed Bill of Exceptions and Statement on
Appeal.**

BE IT REMEMBERED: That the plaintiff in the above-entitled action filed in the above-entitled court, his petition setting out good cause why a receiver should be appointed for the defendant corporation, which said petition was duly served upon said defendant, and said defendant appeared in court and answered the same, whereupon, after due proceedings had, the above-entitled court duly and regularly made and gave its order and caused the same to be entered and filed, and regularly appointing John C. Lynch, Esq., Receiver of the Pacific Coast Casualty Company, a corporation; that thereafter said John C. Lynch duly and regularly qualified as said Receiver, and that he ever since has been and now is the duly and regularly appointed, qualified and acting Receiver of the Pacific

Coast Casualty Company, a corporation; that after the appointment of said John C. Lynch as receiver for said Pacific Coast Casualty Company, one, S. G. Harvey, presented to said Receiver her petition for allowance of claim against said Pacific Coast Casualty Company in the amount of \$773.20 and interest; that said Receiver refused said claim whereupon said claimant filed a petition in the above-entitled court for the allowance thereof, which said petition, together [16] with the exhibits thereto attached, is in the words and figures following, to wit:

[Title of Court and Cause.]

Petition for Order to Show Cause.

Now comes S. G. Harvey, a citizen and resident of the Northern District of California, United States of America, by the undersigned, her solicitors, and respectfully shows the Court:

That petitioner is a creditor of Pacific Coast Casualty Company, a corporation, the defendant above named, that the particulars of her claim against said insurance corporation and the Receiver thereof are set forth in the claim hereto annexed, and in the exhibits attached to and referred to in said claim, and petitioner hereby refers to the said claim and to the said exhibits thereto attached, and incorporates the same herein by reference.

That on the 15th day of January, 1917, petitioner caused her said claim to be presented to John C. Lynch, the receiver of the above-named corporation, defendant, and that the receiver thereafter rejected and refused to allow said claim.

WHEREFORE, petitioner prays for leave of the Court to file this petition in the above-entitled proceedings and for an order of Court herein directing that an order to show cause be made, the same to be returnable at the time and place fixed by the Court, and directing John C. Lynch, as receiver of the Pacific Coast Casualty Company to show cause why he should not allow the said claim of petitioner to be paid in due course of administration of the affairs of the said corporation, and for such other, further and additional relief as shall be meet and proper in equity.

And petitioner will ever pray.

S. G. HARVEY,
Petitioner.

CHARLES S. WHEELER and
JOHN F. BOWIE,

Solicitors for Petitioner.

NATHAN MORAN,
Of Counsel.

[Title of Court and Cause.]

Creditor's Claim.

To the Honorable District Court Above Named, and
to John C. Lynch, Esq., as Receiver of Pacific
Coast Casualty Company, a Corporation:

Now comes S. G. Harvey, a creditor of Pacific Coast Casualty Company, defendant above named, and presents to the above-entitled court, and to the above-named Receiver her claim against Pacific Coast Casualty Company, a corporation, as follows:

Pacific Coast Casualty Company,

To S. G. Harvey, Dr.

To costs and disbursements in the case of
B. S. Stowe, Trustee of the Estate of J.
Downey Harvey, a bankrupt, plaintiff,
versus S. G. Harvey, et al., defendants..\$773.20

To interest accruing on the above amount at
7% per annum from the 18th day of No-
vember, 1914, until payment.....

Total

The particulars of the foregoing claim are as fol-
lows:

On or about the 11th day of January, 1912, there
was commenced in the Southern Division of the
United States District Court for the Northern Dis-
trict of California, First Division, a suit entitled;
B. S. Stowe, Trustee in Bankruptcy of the Estate of
J. Downey Harvey, a Bankrupt, Plaintiff, versus
S. G. Harvey, J. Downey Harvey et al., Defendants.

On the 19th day of September, 1913, in said suit
judgment was entered in favor of the plaintiff
therein, and against the defendant, S. G. Harvey;
that thereafter the said S. G. Harvey took an appeal
in said action to the United States Circuit Court of
Appeals for the Ninth Circuit, which said appeal
was number 2401, and entitled: S. G. Harvey, Appel-
lant and Plaintiff in Error, versus B. S. Stowe, as
Trustee in Bankruptcy of the Estate of J. Downey
Harvey, a Bankrupt, Appellee and Defendant in
Error.

The United States Circuit Court of Appeals on the 18th day of November, 1914, duly gave and made and caused to be filed and entered its decree reversing the judgment and decree of the said District Court and with directions to the said District Court to dismiss the said cause, and further ordered, adjudged and decreed that the appellant and plaintiff in error recover judgment against the appellee and defendant in error for her costs therein expended, and for execution therefor. A copy of said decree is hereto annexed, marked exhibit "A," and is hereby referred to and made a part hereof.

Thereafter the said B. S. Stowe as trustee as afore-said took an appeal from the said decree of the United States Circuit Court of Appeals to the Supreme Court of the United States, and upon said Appeal procured, to be executed, approved and filed in his behalf by Pacific Coast Casualty Company, a bond in the sum of \$5,000.00, to answer all damages and costs if he failed to make said appeal good. A copy of said bond is hereto annexed, marked exhibit "B," and is hereby referred to, and made a part hereof.

Upon hearing and submission of the said cause the United States Circuit Court of Appeals for the Ninth [18] Circuit hereinabove mentioned and referred to, and on the 11th day of July, 1916, the District Court of the United States in and for the Northern District of California, made its order dismissing said action of Stowe versus Harvey. A copy of said order is hereto annexed, marked exhibit

“C,” and is hereby referred to and made a part hereof.

Thereafter the said S. G. Harvey filed in the said District Court her memoranda of costs and disbursements and the same were by the clerk of the said court taxed at \$773.20; that the plaintiff in said action thereafter gave notice of a motion to retax said costs, and upon a hearing by the Court the said motion to retax was denied, and the order of the clerk taxing said costs at \$773.20 was affirmed.

That said S. G. Harvey has frequently demanded of said B. S. Stowe, as Receiver as aforesaid payment of the said costs, but the same have not nor has any part thereof been paid, nor has any interest thereon been paid.

WHEREFORE, said claimant prays that her claim as aforesaid be allowed by the Receiver herein, and be allowed and filed in the above-entitled court and proceeding to be paid in due course of administration.

S. G. HARVEY,
Claimant.

CHARLES S. WHEELER and
J. S. BOWIE,

Attorneys for Plaintiff.

EXHIBIT "A."

*United States Circuit Court of Appeals for the
Ninth Circuit.*

No. 2401.

S. G. HARVEY,

Appellant and Plaintiff in Error,

vs.

B. S. STOWE, as Trustee in Bankruptcy of the Es-
tate of J. DOWNEY HARVEY, a Bankrupt,
Appellee and Defendant in Error.

DECREE.

Appeal from and writ of error to the District Court of the United States for the Northern District of California, First Division.

This cause came on to be heard on the Transcript of the Record from the District Court of the United States for the Northern District of California, First Division, and was duly submitted. [19]

On consideration whereof, it is now here ordered, adjudged and decreed by this Court, that the decree of the said District Court in this cause be, and hereby is, reversed, with costs in court below in favor of the appellant and plaintiff in error and against the appellee and defendant in error, and with directions to the said District Court to dismiss the cause.

It is further ordered, adjudged and decreed by this Court, that the appellant and plaintiff in error recover against the appellee and defendant in error for her costs herein expended, and have execution therefor.

[Endorsed]: Decree. (Approved by Wolverton, D. J.) Filed and entered November 18, 1914. (Signed.) F. D. Monckton, Clerk.

EXHIBIT "B."

United States Circuit Court of Appeals for the Ninth Circuit.

No. 2401.

B. S. STOWE, Trustee in Bankruptcy of the Estate
of J. DOWNEY HARVEY, a Bankrupt,
Appellant,

vs.

S. G. HARVEY,

Appellee.

BOND ON APPEAL FROM DECREE OF CIR-
CUIT COURT OF APPEALS TO THE
SUPREME COURT OF THE UNITED
STATES.

Know All Men by These Presents: That the Pacific Coast Casualty Company, a corporation duly organized under the laws of the State of California, is held and firmly bound unto S. G. Harvey in the full and just sum of Five Thousand Dollars (\$5,000.00), gold coin of the United States of America, to be paid to said S. G. Harvey, her attorneys, executors, administrators or assigns, to which payment well and truly to be made said corporation does hereby bind itself, its successors and assigns, jointly and severally by these presents.

Sealed with our seal and dated this 15th day of December, in the year of our Lord one thousand nine hundred and fourteen.

Whereas, the appellant in the above-entitled suit has prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered and entered in said cause in the United States Circuit Court of Appeals for the Ninth Circuit, on the eighteenth day of November, 1914, in the action wherein B. S. Stowe, trustee in bankruptcy of the Estate of J. Downey Harvey, a bankrupt, was complainant, and S. G. Harvey was defendant, and

Whereas, said appellant has obtained from the said Court an order allowing an appeal to the Supreme Court of the United States to reverse said decree of the United States Circuit Court of Appeals in the aforesaid suit, and a citation directed to S. G. Harvey, citing and admonishing her to be and appear at the United States Supreme Court, to be holden at Washington, District of Columbia. [20]

Now, therefore, the condition of this obligation is such that if the said appellant shall prosecute said appeal to effect and answer all damages and costs, if he fail to make said appeal good, then the above obligation shall be void; otherwise, to remain in full force and effect.

PACIFIC COAST CASUALTY COMPANY.

(Signed) By R. S. STEWART, (Seal)

Attorney in Fact.

The foregoing bond is approved in form, and the sufficiency of the surety therein named is hereby approved, this 15th day of December, A. D. 1914.

(Signed) WM. C. VAN FLEET,

Judge.

EXHIBIT "C."

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

B. S. STOWE, Trustee in Bankruptcy of the Estate
of J. DOWNEY HARVEY, a Bankrupt,
Complainant,

vs.

S. G. HARVEY, J. DOWNEY HARVEY et al.,
Defendants.

ORDER DISMISSING ACTION.

On reading and filing the Mandate of the Supreme Court of the United States, and in compliance therewith, on motion of the attorneys for defendant, S. G. Harvey;

IT IS HEREBY ORDERED, that the above-entitled action be, and the same hereby is dismissed, and that the defendant, S. G. Harvey, have and recover judgment against the said plaintiff for her costs herein, and for her costs and disbursements expended in the United States Circuit Court of Appeals;

AND, WHEREAS: On November 21st, 1913, in compliance with the order of this Court allowing an appeal, said defendant, S. G. Harvey, deposited with the Clerk of this court certificate number 83 for 546 shares of the capital stock of Shore Line Investment Company, a corporation, the same to be held in part lieu of a *supersedeas* bond on appeal;

NOW, THEREFORE, the Clerk of this court is hereby directed to deliver to John F. Bowie, one of the attorneys for S. G. Harvey, the said certificate of stock upon said [21] John F. Bowie, giving proper receipt therefor.

Dated: July 11th, 1916.

M. T. DOOLING,
Judge.

Said petitions and the exhibits thereto were endorsed.

Filed April 26th, 1917. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk. [22]

That said petition was thereupon presented to Hon. W. C. Van Fleet, Judge of the above-entitled court, who issued an Order to Show Cause thereon in the words and figures following:

[Title of Court and Cause.]

Order Granting Leave to File Petition and to Show Cause.

On reading the petition of S. G. Harvey, presented herein, it is ordered that the same be filed and on motion of Chas. S. Wheeler and John F. Bowie, solicitors for petitioner, it is hereby ordered that a copy of the same, together with a copy of this order, be served upon the said James C. Lynch, as Receiver or upon his solicitors of record herein, in the above-entitled suit, on or before the 26th day of April, 1917, and that the said James C. Lynch, as Receiver of Pacific Coast Casualty Company, a corporation, be and appear before our District Court of the United

States, in and for the Northern District of California, Second Division, on Monday, the 30th day of April, 1917, to show cause, if any he have, why he should not allow the claim of S. G. Harvey, as a creditor of said Pacific Coast Casualty Company, as heretofore presented to him and as attached to said petition filed herein.

It is further ordered that service hereof be made by a competent person on or before the day first above named and due return hereon on or before the appearance day above noted.

WITNESS my hand this 26th day of April, A. D. 1917.

W. C. VAN FLEET,
District Judge.

[Endorsed]: Filed April 26, 1917. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk.

That respondent appeared in response to said order to show cause and opposed the same upon the ground that it failed to state facts sufficient to entitle the claimant to the relief prayed for therein or to any relief. Upon the said hearing there was duly offered on behalf of the petition and received in evidence the order allowing the appeal of B. S. Stowe, as trustee in bankruptcy, to the Supreme Court of the United States, as a result of which the bond hereinabove set forth was executed, which said order was in the words and figures following, to wit:

**Order Allowing Appeal to Supreme Court U. S. and
Fixing Amount of Supersedeas Bond.**

The foregoing petition for appeal is hereby granted and it is hereby ordered that the appeal in

the above-entitled cause to the Supreme Court of the United States be and the same is hereby allowed as prayed, also ordered that this shall operate as a *supersedeas* upon the petitioner filing a bond in the sum of five thousand (\$5,000) dollars.

Dated: December 14, 1914.

(Signed) WM. C. VAN FLEET,
United States *Circuit* Judge, Ninth Circuit. [23]

Likewise there was duly offered on behalf of the petitioner and received in evidence the order of the Honorable William W. Morrow, affirming the Clerk's taxation of the costs of this petitioner in the cause of Stowe vs. Harvey, for which said costs the foregoing claim of petitioner was presented for allowance, which said order is in the words and figures as follows, to wit:

“At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the city and county of San Francisco, on Friday, the 21st day of July, in the year of our Lord one thousand nine hundred and sixteen. Present: The Honorable WM. W. MORROW, Judge United States Circuit Court of Appeals for the Ninth Circuit, sitting in the District Court, et al.

No. 15,222.

B. S. STOWE

vs.

J. DOWNEY HARVEY.

**Order Denying Motion for Retaxation of Costs, in
Stowe v. Harvey, in District Court.**

This cause came on regularly this day for hearing of the motion to retax costs herein, the same being an appeal from the taxation heretofore made by the clerk of this Court and after hearing attorneys for the respective parties herein, the Court ordered that the said motion be, and the same is hereby denied and said clerk's taxation affirmed."

Thereupon, the matter was argued by counsel for the respective parties and submitted to the Court for decision, and said Court did, thereafter, make its order in respect thereto in the words and figures following:

[Title of Court and Cause.]

Order Allowing Claim.

"August 13, 1917.

Present: VAN FLEET, District Judge.

The petition of S. G. Harvey for order directing the Receiver to allow her claim, heretofore heard and submitted, being now fully considered, and the Court having rendered its oral opinion it is ordered that said claim be allowed, with interest from the date on which the cost bill was taxed by the Court."

That said James C. Lynch, as Receiver of said Pacific Coast Casualty Company, thereupon duly excepted to said order of the Court and based said exception upon the following grounds: [24]

Exceptions of Receiver of Pacific Coast Casualty Company to Order Allowing Claim.

1. That the bond given by Pacific Coast Casualty Company, was given in a case prosecuted by B. S. Stowe, Complainant, in his capacity as Trustee in Bankruptcy of the Estate of J. Downey Harvey, a bankrupt, and that under the provisions of section 25c of the Bankruptcy Act said Trustee had the right to prosecute said litigation without rendering a bond, and that the order of Court requiring said bond to be given as an incident to taking said appeal was made without right and that said bond given in pursuance thereof is without consideration and void.

2. That at the time said bond was given there was no judgment of any Court made or given upon which an execution could issue and that therefore said bond was not a supersedeas bond, and that it did not have the effect to stay execution in any form or manner, and that it cannot be enforced so as to have that effect.

3. That the judgment for costs which is now sought to be enforced against said bond was not made or given or entered until long after said bond was executed; and was for costs incurred in the lower Court where the judgment had been favorable to complainant, and that all said costs and expenditures were incurred long before said bond was executed and not in reliance thereon.

4. That said bond was not given for the purpose of and did not have the effect of securing the pay-

ment of costs which had been incurred prior to the execution of said bond in a proceeding which had terminated in favor of complainant and for which costs no judgment of any kind had been entered.

On stipulation of the parties that the foregoing statement of evidence on appeal is true, complete and properly prepared, the same is hereby approved.

Dated: October 16th, 1917.

WM. C. VAN FLEET,
Judge of the District Court of the United States,
for the Northern District of California, Second
Division.

Stipulation Re Bill of Exceptions, etc.

It is hereby stipulated that the foregoing statement and bill of exceptions is true, complete and properly prepared, and that the same may be settled and allowed by the Court without notice.

A. E. SHAW and
EDWIN H. WILLIAMS,
Appearing Specially as Attorneys for the Receiver.
CHARLES S. WHEELER and
JOHN F. BOWIE,
Solicitors for Claimant, S. G. Harvey.
NATHAN MORAN,
Of Counsel.

[Endorsed]: Filed Oct. 16, 1917. W. B. Maling,
Clerk. By J. A. Schaertzer, Deputy Clerk. [25]

[Title of Court and Cause.]

**Petition for Order Allowing Appeal and Order
Allowing Appeal.**

To the Honorable Court Above Named:

The above-named defendant, Pacific Coast Casualty Company, through James C. Lynch, its Receiver, considering itself aggrieved by the order of said Court made and entered in the above-entitled matter on the 13th day of August, 1917, in favor of S. G. Harvey, petitioner, hereby appeals therefrom to the United States Circuit Court of Appeals for the Ninth Judicial Circuit for the reasons and upon the grounds specified in its assignment of errors filed herewith, and prays that this appeal may be allowed, and that a transcript of the record, proceedings and papers upon which said order was made and entered as aforesaid, duly authenticated, may be sent to the United States Circuit Court of Appeals, for the Ninth Judicial Circuit, sitting at Sacramento; petitioner hereby tenders bond in such sum as the Court may require, as security for costs upon said appeal, and prays that its appeal be allowed, and that a citation issue as provided by law; and your petitioner further prays that the proper order touching security to be required of it to protect its appeal be made.

A. E. SHAW,

EDWIN H. WILLIAMS,

Solicitors for Defendant, James C. Lynch, Receiver
Pacific Coast Casualty Company, a Corporation,
Specially Appearing in this Matter.

Order Allowing Appeal and Fixing Amount of Bond.

The foregoing petition for appeal is hereby granted and the appeal is allowed upon the petitioner filing a bond in the sum of \$500, with sufficient sureties, to be conditioned as required [26] by law.

Dated: This 12 day of September, A. D. 1917.

WM. C. VAN FLEET,

Judge.

[Endorsed]: Filed Sep. 12, 1917. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk. [27]

[Title of Court and Cause.]

Assignment of Errors on Appeal.

Now, on this 12th day of September, 1917, comes the defendant, Pacific Coast Casualty Company, by its solicitors, and avers that the order entered in the above-entitled cause on the 13th day of August, 1917, in favor of S. G. Harvey, petitioner, is erroneous and unjust to the defendant, and files with its petition for an appeal from the said order the following assignment of errors and specifies that the said order is erroneous in each and every of the following particulars, to wit:

1. That the bond given by Pacific Coast Casualty Company was given in a case prosecuted by B. S. Stowe, complainant, in his capacity as Trustee in Bankruptcy of the Estate of J. Downey Harvey, a bankrupt, and that under the provisions of section 25c of the Bankruptcy Act said trustee had the right to

prosecute said litigation without rendering a bond, and that the order of Court requiring said bond to be given as an incident to taking said appeal was made without right and that said bond given in pursuance thereof is without consideration and void.

2. That at the time said bond was given there was no judgment of any Court made or given upon which an execution could issue and that therefore said bond was not a supersedeas bond, and that it did not have the effect to stay execution in any form or manner, and that it cannot be enforced so as to have that effect.

3. That the judgment for costs which is now sought to be enforced against said bond was not made or given or entered until long after said bond was executed; and was for costs incurred in the lower court where the [28] judgment had been favorable to complainant, and that all said costs and expenditures were incurred long before said bond was executed and not in reliance thereon.

4. That said bond was not given for the purpose of and did not have the effect of securing the payment of costs which had been incurred prior to the execution of said bond in a proceeding which had terminated in favor of complainant and for which costs no judgment of any kind had been entered.

WHEREFORE, the defendant, Pacific Coast Casualty Company, prays that said order be reversed and the District Court directed to dismiss the petition of said S. G. Harvey, or that such other

relief be awarded as the nature of the case demands.

BERT SCHLESINGER and

A. E. SHAW and

EDWIN H. WILLIAMS,

Attorneys and Solicitors for Defendant, Pacific
Coast Casualty Company, a Corporation.

[Endorsed]: Filed Sep. 20, 1917. W. B. Maling,
Clerk. By J. A. Schaertzer, Deputy Clerk. [29]

[Title of Court and Cause.]

**Petition for Writ of Error and Order Allowing Writ
of Error.**

To the Honorable Court Above Named:

Now comes Pacific Coast Casualty Company, defendant in the above-entitled action, through James C. Lynch, its Receiver, by its attorneys, and respectfully shows that on the 13th day of August, 1917, the Court found a verdict against your petitioner in favor of S. G. Harvey, a petitioner in the above-entitled matter, and upon the said verdict an order was thereupon made and entered on said 13th day of August, 1917, against your petitioner the defendant above named, directing it to pay to said petitioner, S. G. Harvey, the sum of \$773.20 and interest thereon at the rate of seven per cent per annum from the 18th day of November, 1914, until payment.

Your petitioner, feeling itself aggrieved by the said verdict and order entered therein as aforesaid, petitions the Court for an order allowing it to prosecute a writ of error to the Circuit Court of Appeals of the United States for the Ninth Judicial Circuit

sitting at San Francisco, under the laws of the United States in such cases made and provided.

WHEREFORE, the premises considered, your petitioner prays that a writ of error do issue with an appeal in this behalf to the United States Circuit Court of Appeals for the Ninth Circuit sitting at San Francisco in said Circuit for the correction of the errors complained of and herewith assigned to be allowed, and that an order be made fixing the amount of security to be given by the plaintiff in error, conditioned as the law directs for the payment of all costs and damages upon said appeal.

A. E. SHAW,

EDWIN H. WILLIAMS,

Attorneys for Plaintiff in Error, Specially Appearing in This Matter. [30]

Order Granting Writ of Error and Fixing Amount of Bond.

Writ of error granted upon the foregoing petition, upon the petitioner filing a bond the amount of which is hereby fixed at \$500, with sufficient sureties as required by law.

Dated this 12th day of September. 1917.

WM. C. VAN FLEET,

Judge.

[Endorsed]: Filed Sep. 12, 1917. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk. [31]

[Title of Court and Cause.]

Assignment of Errors (on Writ of Error).

Now comes Pacific Coast Casualty Company, defendant in the above-entitled action, the plaintiff in error, and in connection with its petition for a writ of error in this case assigns the following errors upon which it relies to reverse the order entered herein on the 13th day of August, 1917, in favor of S. G. Harvey, as appears of record.

1. That the bond given by Pacific Coast Casualty Company was given in a case prosecuted by B. S. Stowe, complainant, in his capacity as Trustee in Bankruptcy of the Estate of J. Downey Harvey, a bankrupt, and that under the provisions of section 25c of the Bankruptcy Act said Trustee had the right to prosecute said litigation without rendering a bond, and that the order of Court requiring said bond to be given as an incident to taking said appeal was made without right and that said bond given in pursuance thereof is without consideration and void.

2. That at the time said bond was given there was no judgment of any Court made or given upon which an execution could issue and that therefore said bond was not a supersedeas bond, and that it did not have the effect to stay execution in any form or manner, and that it cannot be enforced so as to have that effect.

3. That the judgment for costs which is now sought to be enforced against said bond was not made or given or entered until long after said bond

was executed; and was for costs incurred in the lower Court where the judgment had been favorable to complainant, and that all said costs and expenditures were incurred long before said bond was [32] executed and not in reliance thereon.

4. That said bond was not given for the purpose of and did not have the effect of securing the payment of costs which had been incurred prior to the execution of said bond in a proceeding which had terminated in favor of complainant and for which costs no judgment of any kind had been entered.

WHEREFORE, plaintiff in error prays that the order of said Court be reversed and the District Court be ordered to dismiss the said petition as against plaintiff in error.

BERT SCHLESINGER,

A. E. SHAW and

EDWIN H. WILLIAMS,

Attorneys and Solicitors for Plaintiff in Error,
Pacific Coast Casualty Company, a Corporation,

[Endorsed]: Filed Sep. 20, 1917. W. B. Maling,
Clerk. By J. A. Schaertzer, Deputy Clerk. [33]

[Title of Court and Cause.]

Bond on Appeal and Writ of Error.

Know All Men by These Presents: That we, James C. Lynch, as Receiver of Pacific Coast Casualty Company a corporation, as principal, and United States Fidelity and Guaranty Company, a corporation, of the State of Maryland, as surety, are

held and firmly bound to pay unto S. G. Harvey, her attorneys or successors, in the full and just sum of Five Hundred Dollars (\$500.00) to which payment well and truly to be made we bind ourselves and assigns and administrators jointly and severally by these presents.

Signed and dated this 14th day of September, A. D. 1917.

WHEREAS, lately at a regular term of the District Court of the United States for the Northern District of California, Second Division, in a proceeding pending in said court entitled as above, a final judgment was rendered against James C. Lynch, as Receiver, in favor of said S. G. Harvey, directing said Receiver to pay in due course of administration out of the assets which might come into his hands as such Receiver the claim of said S. G. Harvey against the Pacific Coast Casualty Company for the sum of Seven Hundred Seventy Three and 20/100 Dollars (\$773.20), together with interest, and it not clearly appearing whether the cause hereinabove referred to is at law, or in equity, and the said James C. Lynch as Receiver having obtained an appeal to the United States Circuit Court of Appeals for the Ninth Circuit and filed a copy thereof in the office of the Clerk of the Court to reverse the said decree, together with a citation thereon in due form, and having also obtained a Writ of Error to the United States Circuit of Appeals for the Ninth Circuit, and filed a copy thereof in the office of the Clerk of the Court to reverse the judgment of the said District Court of the United States for [34] the North-

ern District of California, together with a citation thereon, in due form;

NOW, THEREFORE, the condition of the above obligation is such that if said James C. Lynch as Receiver shall prosecute his said Appeal and Writ of Error or either of them, to effect and answer all damages and costs if he fail to make his plea good then the above obligation to be void; else to remain in full force and virtue.

JOHN C. LYNCH,
Principal.

UNITED STATES FIDELITY AND GUAR-
ANTY COMPANY,

[Corporate Seal] By H. V. D. JOHNS,
Attorney in Fact.

By W. L. ALEXANDER,
Attorney in Fact.

Surety.

The foregoing bond on appeal and writ of error is hereby approved this 15th day of September, 1917.

WM. C. VAN FLEET,
Judge.

[Endorsed]: Filed Sep. 15, 1917. W. B. Maling,
Clerk. By J. A. Schaertzer, Deputy Clerk. [35]

[Title of Court and Cause.]

Receipt of Petition and Order Allowing Appeal, etc.

Receipt of copy of Petition and Order Allowing Appeal; Assignment of Errors on Appeal; Petition for Writ of Error; Order Allowing Writ of Error; Assignment of Errors on Writ of Error, wherein de-

fendant is appellant and plaintiff in error, and S. G. Harvey is appellee and defendant in error, is admitted this 20th day of September, 1917.

CHARLES S. WHEELER and
JOHN F. BOWIE,

Attorneys for Defendant in Error, S. G. Harvey,
NATHAN MORAN

Of Counsel.

STERLING CARR,
Attorney for Plaintiff.

[Endorsed]: Filed Sep. 20, 1917. W. B. Maling,
Clerk. By J. A. Schaertzer, Deputy Clerk. [36]

[Title of Court and Cause.]

**Amended Praeipie for Transcript on Appeal and
Writ of Error.**

To the Clerk of said Court:

Sir: Please make up, print and issue in the above-entitled cause a certified transcript of the record upon an appeal and upon a writ of error both allowed in this cause, to the Circuit Court of Appeals of the United States for the Ninth Circuit sitting at San Francisco, California, and said transcript to include the following:

1. Order appointing Receiver in the above-entitled action.

2. Petition of S. G. Harvey, together with exhibits and documents annexed thereto, filed in said action on or about April 26, 1917.

3. Order to show cause in granting leave to file said petition, filed April 26, 1917.

4. Minute order under date of 30th day of April, 1917, showing appearance of respondent in response to order to show cause, and objections made to granting of said petition.

5. Order of the Court made and entered on the 13th day of August, 1917.

6. Petition for allowance of appeal and order endorsed thereon.

7. Assignment of errors on appeal.

8. Statement of evidence on appeal, with stipulation of the parties and approval of the Judge, as annexed thereto.

9. Citation on appeal.

10. Petition for writ of error and order of allowance endorsed thereon.

11. Assignment of errors on writ of error. [37]

12. Writ of error.

13. Citation on writ of error.

14. Bond on appeal and writ of error filed or to be filed.

15. Acknowledgment of copies of petition for writ of error, assignment of errors, order allowing writ of error, petition for an appeal, assignment of errors on appeal, and order allowing appeal, which said acknowledgment was filed on the 20th day of September, 1917.

16. Stipulation for single transcript on appeal and writ of error with order of allowance by Circuit Court of Appeals endorsed thereto.

17. Amended Praecipe for transcript.

All of the above to be included in a single transcript prepared in accordance with the stipulation

and the order of the Circuit Court of Appeals endorsed thereon and to be certified under the hand of the Clerk and the seal of the Court.

You will also please transmit to the Circuit Court of Appeals with the record to be prepared as above the original citation on appeal and on writ of error.

BERT SCHLESINGER,

A. E. SHAW and

EDWIN H. WILLIAMS,

Attorneys and Solicitors for Defendant and Appellant, and Plaintiff in Error, Pacific Coast Casualty Company.

Receipt of copy admitted this 24th day of September, 1917.

CHARLES S. WHEELER and

JOHN F. BOWIE,

Attorneys for S. G. Harvey, Appellee.

NATHAN MORAN

Of Counsel for Appellee.

STERLING CARR,

Attorney for Plaintiff.

[Endorsed]: Filed Sep. 24, 1917. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk. [38]

*In the Southern Division of the District Court of
the United States for the Northern District of
California, Second Division.*

No. 320.

DANIEL COMBS,

Plaintiff,

vs.

PACIFIC COAST CASUALTY COMPANY, a Cor-
poration,

Defendant *in* Plaintiff in Error,

Order Enlarging Return Day.

Good cause appearing therefor, it is hereby -ordered that the return day in the Citation issued herein be and the same is hereby enlarged to and including Wednesday the 14th day of November, 1917, and the plaintiff in error is hereby allowed until the 14th day of November, 1917, in which to file the record herein and docket the case with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

Dated October 16th, 1917.

WM. C. VAN FLEET,

Judge.

[Endorsed]: Filed Oct. 16, 1917. W. B. Maling,
Clerk. By J. A. Schaertzer, Deputy Clerk. [39]

In the Southern Division of the United States District Court in and for the Northern District of California, Second Division.

No. 320—EQUITY.

DANIEL COMBS,

Plaintiff,

vs.

PACIFIC COAST CASUALTY COMPANY, a Corporation,

Defendant.

Clerk's Certificate to Record on Appeal and Writ of Error.

I, Walter B. Maling, Clerk of the District Court of the United States, in and for the Northern District of California, do hereby certify the foregoing thirty-nine (39) pages, numbered from 1 to 39, inclusive, to be full, true and correct copies of the record and proceedings as enumerated in the praecipe for transcript of record in the above-entitled cause and that the same constitutes the record on appeal and return to the annexed writ of error.

I further certify that the cost of the foregoing transcript of record is \$15.95; that said amount was paid by the attorneys for the Receiver, and that the original writ of error and citation issued in said cause are hereto annexed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 22d day of October, A. D. 1917.

[Seal]

WALTER B. MALING,

Clerk.

By J. A. Schaertzer,
Deputy Clerk. [40]

*In the Southern Division of the District Court of
the United States, in and for the Northern Dis-
trict of California, Second Division.*

No. 320—IN EQUITY.

DANIEL COMBS,

Plaintiff,

vs.

PACIFIC COAST CASUALTY COMPANY, a Cor-
poration,

Defendant.

Citation on Appeal.

The President of the United States, to S. G. Harvey,
Greeting:

YOU ARE HEREBY CITED AND ADMON-
ISHED, to be and appear at a United States Circuit
Court of Appeals for the Ninth Circuit, to be holden
at the City and County of San Francisco, State of
California, on the 15th day of October, 1917, being
within thirty days from the date hereof, pursuant
to an order allowing an appeal of record in the
Clerk's office of the District Court of the United
States for the Northern District of California, in
the suit brought numbered In Equity—No. 320, in
the records of the said Court, wherein Pacific Coast
Casualty Company is defendant and appellant, and
you are petitioner and appellee, to show cause if
any there be, why the order rendered against the
said defendant and appellant, Pacific Coast Casu-
alty Company, as in said order allowing appeal and
in said order mentioned, should not be corrected,

and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable WILLIAM C. VAN FLEET, United States District Judge for the Northern District of California, this 15th day of September, A. D. 1917.

WM. C. VAN FLEET,
United States District Judge. [41]

[Endorsed]: In Equity—No. 320. In the Southern Division of the District Court of the United States, in and for the Northern District of California, Second Division. Daniel Combs, Plaintiff, vs. Pacific Coast Casualty Company, a Corporation, Defendant. Citation on Appeal. Filed Sep. 20, 1917. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk.

Receipt of a copy of the citation on appeal admitted this 20th day of September, 1917.

CHARLES S. WHEELER and
JOHN F. BOWIE,

Attorneys for Petitioner, S. G. Harvey.
NATHAN MORAN,
Of Counsel.

*In the Southern Division of the District Court of
the United States, in and for the Northern Dis-
trict of California, Second Division.*

No. 320—IN EQUITY.

DANIEL COMBS,

Plaintiff,

vs.

PACIFIC COAST CASUALTY COMPANY, a Cor-
poration,

Defendant.

Writ of Error.

United States of America,—ss.

The President of the United States of America to
the Honorable Judge of the District Court of the
United States for the Northern District of Cali-
fornia, Division No. Two, GREETING:

Because in the record and proceedings, as also in
the rendition of the judgment of a plea which is in
the said District Court before you between Pacific
Coast Casualty Company, plaintiff in error, and S.
G. Harvey, defendant in error a manifest error has
happened to the damage of Pacific Coast Casualty
Company, plaintiff in error, as by said complaint
appears, and we being willing that error, if any hath
been, should be corrected and full and speedy jus-
tice be done to the party aforesaid in this behalf do
command you that judgment be therein given, that
under your seal you send the record and proceedings
aforesaid, with all things concerning the same, to

the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at the city and county of San Francisco, State of California, where said Court is sitting, [42] within thirty days from the date hereof, in the said Circuit Court of Appeals, to be then and there held, and the record and proceedings aforesaid being inspected, the said United States Court of Appeals may cause further to be done therein to correct the error what of right, and according to the law and customs of the United States should be done.

WITNESS, the Honorable EDWARD D. WHITE,
Chief Justice of the United States, this 15th day of
September, A. D. 1917.

[Seal] WALTER B. MALING,
Clerk of the District Court of the United States in
and for the Northern District of California.

By J. A. Schaertzer,
Deputy.

Allowed this 15th day of September, 1917.

WM. C. VAN FLEET,
Judge. [43]

[Endorsed]: In Equity—No. 320. In the Southern Division of the District Court of the United States, in and for the Northern District of California, 2d Division. Daniel Combs, Plaintiff, vs. Pacific Coast Casualty Company, a Corporation, Defendant. Writ of Error. Filed Sep. 20, 1917. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk.

Receipt of a copy of the within Writ of Error is hereby admitted this 20th day of September, 1917.

CHARLES S. WHEELER and
JOHN F. BOWIE,

Attorneys for Defendant in Error, S. G. Harvey,
NATHAN MORAN,
Of Counsel.
STERLING CARR,
Attorney for Plaintiff.

(Return to Writ of Error.)

The answer of the Judge of the District Court of the United States, in and for the Northern District of California, Second Division.

The record and all proceedings of the plaint whereof mention is within made, with all things touching the same, we certify under the seal of our said Court to the United States Circuit Court of Appeals for the Ninth Circuit, within mentioned, at the day and place within contained, in a certain schedule to this writ annexed as within we are commanded.

By the Court.

[Seal]

WALTER B. MALING,

Clerk.

By J. A. Schaertzer,

Deputy Clerk. [44]

*In the Southern Division of the District Court of
the United States, in and for the Northern Dis-
trict of California, Second Division.*

No. 320—IN EQUITY.

DANIEL COMBS,

Plaintiff,

VS.

PACIFIC COAST CASUALTY COMPANY, a Cor-
poration,

Defendant.

Citation on Writ of Error.

United States of America,—ss.

The President of the United States, to S. G. Harvey,

GREETING:

YOU ARE HEREBY CITED AND ADMON-
ISHED to be and appear at a United States Circuit
Court of Appeals, for the Ninth District, to be
holden at the city and county of San Francisco, in
the State of California on the 15th day of October,
1917, being within thirty days from the date hereof,
pursuant to a writ of error filed in the clerk's office
of the District Court of the United States, in and for
the Northern District of California, wherein Pacific
Coast Casualty Company is the plaintiff in error,
and you are the defendant in error, to show cause,
if any there be, why the judgment rendered against
the said plaintiff in error as in the said writ of error
mentioned, should not be corrected, and why speedy
justice should not be done to the party in that be-
half.

WITNESS, the Honorable WILLIAM C. VAN FLEET, United States District Judge for the Northern District of California, [45] this 15th day of September, A. D. 1917.

WM. C. VAN FLEET,
United States District Judge. [46]

[Endorsed]: In Equity—No. 320. In the Southern Division of the District Court of the United States, in and for the Northern District of California, 2d Division. Daniel Combs, Plaintiff, vs. Pacific Coast Casualty Company, a Corporation, Defendant. Citation on Writ of Error. Filed Sep. 20, 1917. W. B. Maling, Clerk. By J. A. Schaertzer, Deputy Clerk.

Receipt of a copy of the citation on writ of error admitted this 20th day of September, 1917.

CHARLES S. WHEELER and
JOHN F. BOWIE,
Attorneys for Petitioner, and S. G. Harvey.
NATHAN MORAN,
Of Counsel.
STERLING CARR,
Attorney for Plaintiff.

[Endorsed]: No. 3069. United States Circuit Court of Appeals for the Ninth Circuit. Pacific Coast Casualty Company, a Corporation, Appellant and Plaintiff in Error, vs. S. G. Harvey, Appellee and Defendant in Error. Transcript of Record. Upon Appeal from and Writ of Error to the Southern Division of the District Court of the United

States for the Northern District of California, Second Division.

Filed October 24, 1917.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

